

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P03020WO.1P	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/DE2004/001253	International filing date (day/month/year) 17.06.2004	Priority date (day/month/year) 22.07.2003
International Patent Classification (IPC) or national classification and IPC H04M1/60, H04M1/725, H04M3/42		
Applicant DEUTSCHE TELECOM AG		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 8 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

a. ☒ (sent to the applicant and to the International Bureau) a total of 14 sheets, as follows:

☒ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input checked="" type="checkbox"/>	Box No. VII	Certain defects in the international application
<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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International application No.

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:

- ☐ international search (Rule 12.3 and 23.1(b))
☐ publication of the international application (Rule 12.4)
☐ international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

☐ the international application as originally filed/furnished

☒ the description:

pages 2-24 as originally filed/furnished

pages* 1, 1a received by this Authority on 16.11.2005 with letter of 16.11.2005

pages* _____ received by this Authority on _____

☒ the claims:

nos. _____ as originally filed/furnished

nos.* _____ as amended (together with any statement) under Article 19

nos.* 1-49 received by this Authority on 16.11.2005 with letter of 16.11.2005

nos.* _____ received by this Authority on _____

☒ the drawings:

sheets 1/2, 2/2 as originally filed/furnished

sheets* _____ received by this Authority on _____

sheets* _____ received by this Authority on _____

☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages _____

☐ the claims, nos. _____

☐ the drawings, sheets/figs _____

☐ the sequence listing (*specify*): _____

☐ any table(s) related to sequence listing (*specify*): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

☐ the description, pages _____

☐ the claims, nos. _____

☐ the drawings, sheets/figs _____

☐ the sequence listing (*specify*): _____

☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	<u>1-49</u>	YES
	Claims	_____	NO
Inventive step (IS)	Claims	_____	YES
	Claims	<u>1-49</u>	NO
Industrial applicability (IA)	Claims	<u>1-49</u>	YES
	Claims	_____	NO

2. Citations and explanations (Rule 70.7)

1. This report makes reference to the following documents:

D1: US 2002/071396 A1 (LEE JAU YOUNG ET AL)

13 June 2002 (2002-06-13)

D2: US-A-5 581 600 (ELLISTON DAVE M ET AL)

3 December 1996 (1996-12-03)

D3: US-B1-6 377 825 (KENNEDY PATRICK J ET AL)

23 April 2002 (2002-04-23)

D4: WO 97/50222 A (MCI COMMUNICATIONS CORP)

31 December 1997 (1997-12-31)

D5: WO 03/041440 A (INFORMATION H; YANG SOOHYUN

(KR)) 15 May 2003 (2003-05-15)

2. The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claims 1 and 22 does not involve an inventive step within the meaning of PCT Article 33(3).

- 2.1 D1 shows (as per the essential features of **claim 1**) a process using a telecommunication terminal device (108), more particularly a mobile

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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telecommunication terminal device (108), wherein at least for the duration of a communication link (cf. the abstract: "dynamically loading a software-defined vocoder into a handset") at least one program for implementing a speech-processing algorithm (paragraph [0033]: "one or more software-defined vocoders...are stored in the BSC...and then downloaded") is at least temporarily downloaded by a service server into the telecommunication terminal device (paragraph [0014]: "software-defined vocoders may be stored in the network and downloaded into the handset, or...may be stored in the handset itself") and implemented for use (paragraph [0033]: "for encoding and decoding voice signals").

The subject matter of claim 1 **differs** from the disclosure of D1 in that downloading is based on the telecommunication terminal device and/or the environmental conditions thereof.

The **technical problem** may therefore be considered that of configuring downloading in a terminal-specific manner.

However, the **solution** is considered to be of the kind known to a person skilled in the art as an obvious alternative: namely, communication of the identity of the terminal used, not that of the polling network used. Thus, a person skilled in the art would modify the teaching of D1 such that the type of polled terminal, not the polling

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network, is communicated to the service server as a parameter and thereby arrive at the subject matter of claim 1 without being inventive.

Consequently, the subject matter of claim 1 lacks inventive step (PCT Article 33(3)) and thus fails to meet the requirements of PCT Article 33(1).

- 2.2 Independent **claim 22** uses structural definitions to describe the same subject matter as that described in claim 1: namely, a system for providing hands-free communication. The service server is located in the BSC (cf. paragraph [0033]). A defined requirement signal is disclosed in figure 4 ("NOTIFICATION OF NETWORK TYPE") which, as argued in 2.1 above, need be modified by a person skilled in the art only to communicate the terminal type.

Therefore, the subject matter of claim 22 also lacks inventive step (PCT Article 33(3)) and fails to meet the requirements of PCT Article 33(1).

3. The additional features of dependent claims 2-21 and 23-49 represent simple technical measures which do not make an inventive contribution or pertain to merely structural features which are either directly deducible from the above-indicated prior art or represent standard measures not exceeding general technical knowledge: for example, connection via a communication network (D1, figure 1A), conversion between different

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frequency bands (D1, paragraph [0026]) or the definition of a telecommunication terminal device (D1, figure 3).

4. The subject matter of **claims 1-49** is industrially applicable and therefore meets the requirements of PCT Article 33(4).

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Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

1. Claim 1 should have been drafted in the two-part form defined by PCT 6.3(b). The features known in combination from the prior art (D1) (temporary downloading by a service server and implementation of a program for the duration of a communication link) should have been placed in the preamble (PCT Rule 6.3(b)(i)) and the remaining features specified in the characterizing part (PCT Rule 6.3(b)(ii)).

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1. **Claims 1 and 22:** note that the expression "more particularly" does not restrict the scope of protection. On the contrary, its use can lead to ambiguity in the interpretation of the relevant features and consequent lack of clarity in the definition of the subject matter. Therefore, such expressions should not be used in the claims (cf. PCT Guidelines, paragraph II-5.40).